IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8 OF 2006

Sham s/o Ramchandra Pawar, .. Applicant.
Vs
1. State of Maharashtra & ors. .. Respondents
Mr S.V.Kurundkar, for the applicant.
Mr P.A.Pol, APP for the respondents.
Mr Balkrishna D.Joshi, for respondent no.4.

CORAM : D.B.BHOSALE, J.

DATED : 7th August, 2006

P.C.:

1. Heard Mr Kurundkar, for the applicant, Mr. Joshi, learned counsel for respondent no.4 and Mr Pol, learned APP for the respondent-State.

2. In this application, the applicant has made the following prayer:-

> "(B) By allowing present application, the First Information Report in Crime No.43/2005 (Exh.A to the present petition) registered by respondent no.2 may kindly be quashed and set aside."

Mr.Kurundkar, learned counsel for the applicant, at the outset, submitted that the caste of the complainant is not mentioned in the First Information Report and in view thereof, the investigating officer ought not to have registered an offence under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. 1989. Insofar as the

registration of the offence under the provisions of Indian Penal Code is concerned, he fairly stated that he is not seeking quashing of the offence under those provisions. In support of his contention, he placed reliance upon the judgment of this Court in Manohar s/o Martandrao Kulkarni Vs. state of Maharashtra and ors, 2005 (4) Mh.L.J. 588. Mr Joshi, learned counsel for respondent no.4, could not and did not controvert the submission of Mr.Kurundkar, learned counsel for the applicant insofar as offence under the provisions of Atrocities Act is concerned. On perusal of the First Information Report, it is clear that no caste of the complainant was mentioned in the FIR. After having considered the judgment of this Court as also the First Information Report, I am satisfied that the FIR in Crime No.43/2005 deserves to be quashed and set aside insofar as the charge under section 3(1)(x) and (2)(7) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned. Order accordingly. Insofar as the offences under the provisions of the Indian Penal Code are concerned, the investigating agency is at liberty to prosecute the said complaint further in accordance with law. The application is disposed of.

(D.B.BHOSALE,J.)